

# **U.S. Sentencing Commission Preliminary Crack Cocaine Retroactivity Data Report**



**November 2009 Data**

## Introduction

As part of its ongoing mission, the United States Sentencing Commission provides Congress, the judiciary, the executive branch, and the general public with data extracted from and based on sentencing documents submitted by courts to the Commission.<sup>1</sup> Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.<sup>2</sup>

The Commission also reports preliminary data for an on-going fiscal year in order to provide real-time analysis of sentencing practices in the federal courts. Since 2005, the Commission has published a series of quarterly reports that are similar in format and methodology to tables and figures produced in the *Sourcebook of Federal Sentencing Statistics* or in the Commission's *Final Report on the Impact of the United States v. Booker on Federal Sentencing*.<sup>3</sup> The quarterly reports contain cumulative data for the on-going fiscal year (i.e., data from the start of the fiscal year through the most current quarter).

This report is another in the Commission's efforts to provide analysis of federal sentencing practices. It provides data concerning recent court decisions considering motions to reduce the length of imprisonment for certain offenders convicted of offenses involving crack cocaine prior to November 1, 2007.

On May 1, 2007, pursuant to 28 U.S.C. § 994(a) and (p), the Commission submitted to Congress amendments to the federal sentencing guidelines that became effective on November 1, 2007. One of those amendments, Amendment 706, modified the drug quantity thresholds in the Drug Quantity Table of §2D1.1 so as to assign, for crack cocaine offenses, base offense levels corresponding to guideline ranges that include the statutory mandatory minimum penalties. Crack cocaine offenses for quantities above and below the mandatory minimum threshold quantities similarly were adjusted downward by two levels. The amendment also included a mechanism to determine a combined base offense level in an offense involving crack cocaine and other controlled substances.

On December 11, 2007, the Commission voted to promulgate Amendment 713, which added Amendment 706 as amended by 711, to the amendments listed in subsection (c) in §1B1.10 that apply retroactively. The Commission voted to make Amendment 713 effective on March 3, 2008. As a result, some incarcerated offenders are eligible to receive a reduction in their sentence under 18 U.S.C. § 3582(c)(2) pursuant to Amendment 706.

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<sup>1</sup> In each felony or Class A misdemeanor case sentenced in federal court, sentencing courts are required to submit the following documents to the Commission: the judgment and commitment order, the statement of reasons, the plea agreement (if applicable), the indictment or other charging document, and the presentence report. See 28 U.S.C. § 994(w).

<sup>2</sup> See the Commission's website, [www.ussc.gov](http://www.ussc.gov), for electronic copies of the 1995-2007 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

<sup>3</sup> See [www.ussc.gov/bf.htm](http://www.ussc.gov/bf.htm) for an electronic copy of the Commission's *Final Report on the Impact of United States v. Booker on Federal Sentencing*.

This report provides information on all cases reported to the Commission in which the court considered a motion to reduce a sentence under 18 U.S.C. § 3582(c)(2) for an offender convicted of an offense involving crack cocaine. The data in this report represents information concerning motions decided through November 10, 2009, and for which court documentation was received, coded and edited at the U.S. Sentencing Commission by November 17, 2009. Users of this information are cautioned that the data are preliminary only and subject to change as the Commission receives, analyzes, and reports on additional cases.

In particular, the reader is cautioned with respect to drawing conclusions based on data concerning the denial of motions for sentence reduction pursuant to the crack cocaine amendment, as the judicial districts are employing various methods to prioritize the review of these motions. For example, in many districts, contested motions have not been decided by the court. Consequently, the data the Commission has received to date concerning cases in which the motion for a sentence reduction was denied may not be representative of the decisions that ultimately may be made in all districts or the nation as a whole.

Table 1

## GEOGRAPHICAL DISTRIBUTION OF APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY DISTRICT

District	N	Granted		Denied		District	N	Granted		Denied	
		N	%	N	%			N	%	N	%
<b>TOTAL</b>	<b>23,155</b>	<b>15,359</b>	<b>66.3</b>	<b>7,796</b>	<b>33.7</b>						
Eastern Virginia	1,470	951	64.7	519	35.3	Eastern New York	184	95	51.6	89	48.4
Middle Florida	1,311	711	54.2	600	45.8	Western Kentucky	180	89	49.4	91	50.6
South Carolina	906	708	78.1	198	21.9	Western Wisconsin	178	126	70.8	52	29.2
Western North Carolina	847	398	47.0	449	53.0	Massachusetts	177	123	69.5	54	30.5
Western Virginia	830	514	61.9	316	38.1	Southern Iowa	169	99	58.6	70	41.4
Eastern North Carolina	786	451	57.4	335	42.6	Eastern Arkansas	159	105	66.0	54	34.0
Western Texas	616	426	69.2	190	30.8	Eastern Kentucky	152	78	51.3	74	48.7
Northern Florida	543	233	42.9	310	57.1	Northern New York	151	113	74.8	38	25.2
Eastern Texas	524	412	78.6	112	21.4	Northern Mississippi	149	149	100.0	0	0.0
Southern Florida	514	265	51.6	249	48.4	Eastern Wisconsin	140	99	70.7	41	29.3
Eastern Missouri	513	447	87.1	66	12.9	Middle Alabama	131	124	94.7	7	5.3
Northern Texas	446	265	59.4	181	40.6	Colorado	129	68	52.7	61	47.3
Eastern Louisiana	429	198	46.2	231	53.8	Northern Georgia	127	77	60.6	50	39.4
Northern West Virginia	427	422	98.8	5	1.2	New Jersey	121	104	86.0	17	14.0
Southern Georgia	418	215	51.4	203	48.6	Western Pennsylvania	117	105	89.7	12	10.3
Southern New York	409	164	40.1	245	59.9	Maine	108	60	55.6	48	44.4
Central Illinois	405	157	38.8	248	61.2	Southern Indiana	98	55	56.1	43	43.9
Middle Georgia	392	306	78.1	86	21.9	New Hampshire	92	48	52.2	44	47.8
Western Missouri	387	225	58.1	162	41.9	Central California	92	62	67.4	30	32.6
Maryland	383	290	75.7	93	24.3	Eastern California	91	90	98.9	1	1.1
Southern Texas	382	275	72.0	107	28.0	Middle Louisiana	87	58	66.7	29	33.3
Southern Alabama	375	251	66.9	124	33.1	Western Arkansas	84	52	61.9	32	38.1
Southern West Virginia	348	257	73.9	91	26.1	Northern Oklahoma	75	41	54.7	34	45.3
Northern Ohio	334	300	89.8	34	10.2	Alaska	70	41	58.6	29	41.4
Middle Pennsylvania	326	209	64.1	117	35.9	Rhode Island	69	56	81.2	13	18.8
Western Louisiana	325	188	57.8	137	42.2	Nevada	65	57	87.7	8	12.3
Southern Illinois	291	270	92.8	21	7.2	Western Oklahoma	62	62	100.0	0	0.0
Nebraska	291	234	80.4	57	19.6	Middle Tennessee	51	42	82.4	9	17.6
Northern Illinois	270	240	88.9	30	11.1	Western Washington	48	47	97.9	1	2.1
Northern Indiana	270	217	80.4	53	19.6	New Mexico	44	40	90.9	4	9.1
Northern Alabama	265	129	48.7	136	51.3	Northern California	39	39	100.0	0	0.0
Connecticut	262	169	64.5	93	35.5	Delaware	34	25	73.5	9	26.5
Northern Iowa	257	145	56.4	112	43.6	Hawaii	29	25	86.2	4	13.8
Eastern Tennessee	256	162	63.3	94	36.7	Vermont	23	23	100.0	0	0.0
Minnesota	254	182	71.7	72	28.3	Oregon	20	19	95.0	1	5.0
Eastern Pennsylvania	252	210	83.3	42	16.7	Eastern Oklahoma	17	13	76.5	4	23.5
Puerto Rico	251	91	36.3	160	63.7	Utah	17	16	94.1	1	5.9
Southern Ohio	244	210	86.1	34	13.9	Eastern Washington	16	9	56.3	7	43.8
Middle North Carolina	234	127	54.3	107	45.7	Southern California	12	12	100.0	0	0.0
Southern Mississippi	234	196	83.8	38	16.2	Montana	8	4	50.0	4	50.0
Eastern Michigan	225	208	92.4	17	7.6	Virgin Islands	5	5	100.0	0	0.0
Western New York	213	135	63.4	78	36.6	Arizona	3	3	100.0	0	0.0
District of Columbia	211	200	94.8	11	5.2	Idaho	3	2	66.7	1	33.3
Western Tennessee	210	141	67.1	69	32.9	South Dakota	1	1	100.0	0	0.0
Western Michigan	197	102	51.8	95	48.2	Wyoming	1	1	100.0	0	0.0
Kansas	194	191	98.5	3	1.5						

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 2**

**GEOGRAPHICAL DISTRIBUTION OF APPLICATION OF  
RETROACTIVE CRACK COCAINE AMENDMENT  
BY JUDICIAL CIRCUIT**

<b>Circuit</b>	<b>N</b>	<b>Granted</b>	<b>Denied</b>
<b>TOTAL</b>	<b>23,155</b>	<b>15,359</b>	<b>7,796</b>
FOURTH CIRCUIT	6,231	4,118	2,113
ELEVENTH CIRCUIT	4,076	2,311	1,765
FIFTH CIRCUIT	3,192	2,167	1,025
EIGHTH CIRCUIT	2,115	1,490	625
SIXTH CIRCUIT	1,849	1,332	517
SEVENTH CIRCUIT	1,652	1,164	488
SECOND CIRCUIT	1,242	699	543
THIRD CIRCUIT	855	658	197
FIRST CIRCUIT	697	378	319
TENTH CIRCUIT	539	432	107
NINTH CIRCUIT	496	410	86
D.C. CIRCUIT	211	200	11

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 3**

**APPLICATION OF RETROACTIVE CRACK COCAINE AMENDMENT BY  
YEAR OF ORIGINAL SENTENCE<sup>1</sup>**

<b>Fiscal Year</b>	<b>Total</b>	<b>Granted</b>		<b>Denied</b>	
	<b>N</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Total</b>	<b>22,619</b>	<b>15,023</b>	<b>66.4</b>	<b>7,596</b>	<b>33.6</b>
2009	20	2	10.0	18	90.0
2008	510	139	27.3	371	72.7
2007	3,187	2,192	68.8	995	31.2
2006	3,122	2,241	71.8	881	28.2
2005	2,740	1,874	68.4	866	31.6
2004	2,291	1,595	69.6	696	30.4
2003	2,155	1,460	67.7	695	32.3
2002	1,664	1,119	67.2	545	32.8
2001	1,329	895	67.3	434	32.7
2000	1,201	773	64.4	428	35.6
1999	959	637	66.4	322	33.6
1998	761	478	62.8	283	37.2
1997	587	368	62.7	219	37.3
1996	550	355	64.5	195	35.5
1995	403	246	61.0	157	39.0
1994	375	200	53.3	175	46.7
1993	278	161	57.9	117	42.1
1992	204	121	59.3	83	40.7
1991	120	67	55.8	53	44.2
1990	113	63	55.8	50	44.2
1989	50	37	74.0	13	26.0

<sup>1</sup>Of the 23,155 cases, 536 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 4**

**ORIGIN OF GRANTED MOTION FOR SENTENCE REDUCTION DUE TO  
RETROACTIVE APPLICATION OF CRACK COCAINE AMENDMENT<sup>1</sup>**

CIRCUIT	Defendant			Director BOP <sup>2</sup>		Court	
	N	N	%	N	%	N	%
TOTAL	13,998	11,697	83.6	0	0.0	2,301	16.4
D.C. CIRCUIT	175	172	98.3	0	0.0	3	1.7
FIRST CIRCUIT	367	311	84.7	0	0.0	56	15.3
SECOND CIRCUIT	659	448	68.0	0	0.0	211	32.0
THIRD CIRCUIT	565	559	98.9	0	0.0	6	1.1
FOURTH CIRCUIT	3,799	3,227	84.9	0	0.0	572	15.1
FIFTH CIRCUIT	1,869	1,379	73.8	0	0.0	490	26.2
SIXTH CIRCUIT	1,221	1,079	88.4	0	0.0	142	11.6
SEVENTH CIRCUIT	1,133	1,103	97.4	0	0.0	30	2.6
EIGHTH CIRCUIT	1,426	1,323	92.8	0	0.0	103	7.2
NINTH CIRCUIT	321	287	89.4	0	0.0	34	10.6
TENTH CIRCUIT	423	404	95.5	0	0.0	19	4.5
ELEVENTH CIRCUIT	2,040	1,405	68.9	0	0.0	635	31.1

<sup>1</sup>Of the 15,359 cases in which the court granted a motion for a sentence reduction due to retroactive application of the crack cocaine amendment, 1,421 were excluded from this analysis because the information received by the Commission prevented a determination of motion origin. Additionally, courts may cite multiple origins for a motion; consequently, the total number of origins cited generally exceeds the total number of cases. In this table, 13,998 origins were cited for the 13,938 cases.

<sup>2</sup>In nine cases, documents provided to the Commission indicated that the Bureau of Prisons Director made a motion. Those cases appear to be clerical errors.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

Table 5

**DEMOGRAPHIC CHARACTERISTICS OF OFFENDERS CONSIDERED  
FOR SENTENCE REDUCTION DUE TO APPLICATION OF  
RETROACTIVE CRACK COCAINE AMENDMENT**

<b>Race/Ethnicity</b>	<b>Total</b>	<b>Granted</b>		<b>Denied<sup>1</sup></b>	
		<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
White	990	903	6.0	87	4.9
Black	14,441	12,910	86.0	1,531	86.7
Hispanic	1,211	1,075	7.2	136	7.7
Other	143	132	0.9	11	0.6
<b>Total</b>	<b>16,785</b>	<b>15,020</b>		<b>1,765</b>	
<b>Citizenship</b>					
U.S. Citizen	15,749	14,071	94.8	1,678	95.0
Non-Citizen	858	770	5.2	88	5.0
<b>Total</b>	<b>16,607</b>	<b>14,841</b>		<b>1,766</b>	
<b>Gender</b>					
Male	15,892	14,213	93.9	1,679	94.9
Female	1,008	918	6.1	90	5.1
<b>Total</b>	<b>16,900</b>	<b>15,131</b>		<b>1,769</b>	
<b>Average Age</b>					
	<b>30</b>	<b>30</b>		<b>30</b>	

<sup>1</sup>The 1,769 offenders represented in this column are those whom the Commission previously identified as eligible to seek a sentence reduction but whose petition for a reduction was denied by the court. Of the remaining 6,027 cases in which the court denied the request for a sentence reduction, 3,993 were excluded from this analysis because the offender was not previously identified as eligible to seek a sentence reduction for one or more reasons (see 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) available at [www.ussc.gov](http://www.ussc.gov)). Of the remaining 2,034 cases, 431 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2007 and so was excluded from the Commission's prior analysis of eligible offenders, 554 were excluded from this analysis because the offender was not sentenced for a drug offense, 849 were excluded from this analysis because crack cocaine was not involved in the offense, and 200 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.



**Table 6**

**SELECTED SENTENCING FACTORS FOR OFFENDERS WHO WERE CONSIDERED FOR  
SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE CRACK COCAINE  
AMENDMENT**

	<b>All Cases</b>	<b>Granted</b>	<b>Denied<sup>1</sup></b>
	<b>%</b>	<b>%</b>	<b>%</b>
<b>Weapon</b>			
Weapon Specific Offense Characteristic	24.2	23.7	27.8
Firearms Mandatory Minimum Applied	10.2	9.8	13.5
<b>Safety Valve</b>	9.3	9.9	4.6
<b>Guideline Role Adjustments</b>			
Aggravating Role (USSG §3B1.1)	10.0	9.0	18.0
Mitigating Role (USSG §3B1.2)	3.0	2.8	4.6
Obstruction Adjustment (USSG §3C1.1)	6.0	5.9	7.1
<b>Sentence Relative to the Guideline Range</b>			
Within Range	69.3	70.9	55.2
Above Range	0.4	0.3	1.2
Below Range	30.3	28.7	43.6
<b>Criminal History Category</b>			
I	22.3	23.0	16.2
II	12.9	12.9	12.8
III	23.0	23.2	21.9
IV	16.8	17.2	13.9
V	10.3	10.2	11.3
VI	14.7	13.6	24.0

<sup>1</sup>The 1,769 offenders represented in this column are those whom the Commission previously identified as eligible to seek a sentence reduction but whose petition for a reduction was denied by the court. Of the remaining 6,027 cases in which the court denied the request for a sentence reduction, 3,993 were excluded from this analysis because the offender was not previously identified as eligible to seek a sentence reduction for one or more reasons (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) *available at* [www.ussc.gov](http://www.ussc.gov)). Of the remaining 2,034 cases, 431 were excluded from this analysis because the offender had been identified as released or projected to be released prior to November 1, 2007 and so was excluded from the Commission's prior analysis of eligible offenders, 554 were excluded from this analysis because the offender was not sentenced for a drug offense, 849 were excluded from this analysis because crack cocaine was not involved in the offense, and 200 were excluded from this analysis because the reason for the court's decision cannot yet be determined.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 7**

**POSITION OF WITHIN RANGE SENTENCES FOR OFFENDERS GRANTED A  
SENTENCE REDUCTION DUE TO APPLICATION OF RETROACTIVE  
CRACK COCAINE AMENDMENT<sup>1</sup>**

	<b>ORIGINAL SENTENCE</b>		<b>CURRENT SENTENCE</b>	
	N	%	N	%
<b>TOTAL</b>	<b>6,122</b>	<b>100.0</b>	<b>6,122</b>	<b>100.0</b>
<b>Guideline Minimum</b>	3,958	64.7	4,097	66.9
<b>Lower Half of Range</b>	1,072	17.5	818	13.4
<b>Midpoint of Range</b>	292	4.8	454	7.4
<b>Upper Half of Range</b>	400	6.5	368	6.0
<b>Guideline Maximum</b>	400	6.5	385	6.3

<sup>1</sup>Of the 15,359 cases in which a motion for retroactive application of the crack cocaine amendment was granted, 7,978 received a sentence within the guideline range at both their original and current sentencing. Of these, 1,856 cases were excluded from this analysis due to one or more of the following reasons: the case is missing sentence length or guideline relevant statutory information from the new sentence (1,352), the case is missing sentence length or guideline relevant statutory information from the original sentence (431), the new sentence had a guideline minimum and maximum that were identical (182) or the original sentence had a guideline minimum and maximum that were identical (30).

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

Table 8

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF  
CRACK COCAINE AMENDMENT<sup>1</sup>**

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	<b>N</b>				
<b>TOTAL</b>	<b>13,814</b>	<b>146</b>	<b>121</b>	<b>25</b>	<b>16.9</b>
<b>D.C. CIRCUIT</b>	<b>132</b>	<b>133</b>	<b>112</b>	<b>21</b>	<b>15.7</b>
District of Columbia	132	133	112	21	15.7
<b>FIRST CIRCUIT</b>	<b>325</b>	<b>119</b>	<b>98</b>	<b>21</b>	<b>17.3</b>
Maine	60	126	104	22	16.8
Massachusetts	87	135	112	23	16.8
New Hampshire	46	94	76	18	19.4
Puerto Rico	85	107	86	21	18.0
Rhode Island	47	125	106	20	15.7
<b>SECOND CIRCUIT</b>	<b>592</b>	<b>119</b>	<b>100</b>	<b>19</b>	<b>15.8</b>
Connecticut	144	113	94	19	17.0
New York					
Eastern	84	119	98	21	17.1
Northern	79	134	113	21	15.6
Southern	145	134	114	20	14.6
Western	124	103	88	15	14.6
Vermont	16	97	78	18	18.6
<b>THIRD CIRCUIT</b>	<b>554</b>	<b>130</b>	<b>109</b>	<b>22</b>	<b>16.3</b>
Delaware	24	160	131	29	17.5
New Jersey	101	118	100	19	16.0
Pennsylvania					
Eastern	172	147	122	26	16.4
Middle	165	121	102	20	16.5
Western	91	120	102	19	15.8
Virgin Islands	1	--	--	--	--
<b>FOURTH CIRCUIT</b>	<b>3,775</b>	<b>154</b>	<b>127</b>	<b>27</b>	<b>16.9</b>
Maryland	250	157	130	28	17.4
North Carolina					
Eastern	440	170	141	29	16.6
Middle	124	146	121	25	16.7
Western	309	190	159	31	15.4
South Carolina	685	153	125	28	17.5
Virginia					
Eastern	870	155	128	27	17.0
Western	489	152	129	24	15.5
West Virginia					
Northern	362	116	95	22	18.2
Southern	246	138	113	26	18.5

Table 8 (continued)

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF  
CRACK COCAINE AMENDMENT**

<b>CIRCUIT</b> District	<b>N</b>	<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
<b>FIFTH CIRCUIT</b>	<b>1,979</b>	<b>141</b>	<b>117</b>	<b>24</b>	<b>17.2</b>
Louisiana					
Eastern	187	134	116	19	13.8
Middle	49	114	98	16	14.5
Western	169	148	122	26	17.0
Mississippi					
Northern	134	122	101	22	17.9
Southern	177	124	103	21	17.4
Texas					
Eastern	407	134	108	25	18.8
Northern	251	174	143	31	18.0
Southern	224	154	128	26	16.3
Western	381	140	116	24	17.3
<b>SIXTH CIRCUIT</b>	<b>1,245</b>	<b>123</b>	<b>103</b>	<b>20</b>	<b>16.1</b>
Kentucky					
Eastern	70	105	87	18	16.3
Western	88	124	106	18	14.5
Michigan					
Eastern	159	152	125	27	16.7
Western	100	98	84	14	14.7
Ohio					
Northern	296	105	87	18	17.2
Southern	205	131	110	21	16.3
Tennessee					
Eastern	158	124	107	18	14.2
Middle	37	149	122	27	16.4
Western	132	137	114	23	16.9
<b>SEVENTH CIRCUIT</b>	<b>1,061</b>	<b>152</b>	<b>125</b>	<b>28</b>	<b>17.7</b>
Illinois					
Central	142	167	138	29	16.8
Northern	213	144	120	24	16.6
Southern	264	167	135	32	18.0
Indiana					
Northern	208	131	109	22	17.2
Southern	42	187	157	30	15.7
Wisconsin					
Eastern	92	130	106	24	18.9
Western	100	162	127	35	21.0
<b>EIGHTH CIRCUIT</b>	<b>1,327</b>	<b>140</b>	<b>116</b>	<b>24</b>	<b>16.8</b>
Arkansas					
Eastern	83	141	116	25	17.9
Western	52	101	85	16	16.7
Iowa					
Northern	125	163	134	29	17.6
Southern	93	160	134	27	16.2
Minnesota	155	167	139	29	16.8
Missouri					
Eastern	416	116	97	19	16.1
Western	179	160	131	29	17.0
Nebraska	224	137	113	25	17.2
North Dakota	0	--	--	--	--
South Dakota	0	--	--	--	--

Table 8 (continued)

**DEGREE OF DECREASE IN SENTENCE DUE TO RETROACTIVE APPLICATION OF  
CRACK COCAINE AMENDMENT**

<b>CIRCUIT</b>		<b>Average Current Sentence in Months</b>	<b>Average New Sentence in Months</b>	<b>Average Decrease in Months From Current Sentence</b>	<b>Average Percent Decrease From Current Sentence</b>
District	N				
<b>NINTH CIRCUIT</b>	<b>365</b>	<b>143</b>	<b>119</b>	<b>24</b>	<b>16.1</b>
Alaska	38	157	136	22	14.1
Arizona	3	213	171	42	19.8
California					
Central	52	162	132	30	18.3
Eastern	79	141	117	24	16.4
Northern	36	112	96	16	14.1
Southern	9	154	133	21	14.5
Guam	0	--	--	--	--
Hawaii	18	125	104	21	16.3
Idaho	2	--	--	--	--
Montana	4	102	90	12	13.1
Nevada	55	155	129	26	16.3
Northern Mariana Islands	0	--	--	--	--
Oregon	14	112	95	17	16.7
Washington					
Eastern	9	138	121	17	12.1
Western	46	143	115	28	17.3
<b>TENTH CIRCUIT</b>	<b>386</b>	<b>149</b>	<b>123</b>	<b>26</b>	<b>17.1</b>
Colorado	64	162	133	29	17.4
Kansas	172	128	106	22	16.8
New Mexico	39	143	117	26	17.0
Oklahoma					
Eastern	13	161	134	27	18.4
Northern	38	192	161	32	15.8
Western	45	183	148	35	18.9
Utah	14	120	100	20	16.0
Wyoming	1	--	--	--	--
<b>ELEVENTH CIRCUIT</b>	<b>2,073</b>	<b>166</b>	<b>136</b>	<b>30</b>	<b>17.6</b>
Alabama					
Middle	122	170	140	30	16.9
Northern	100	141	120	22	14.6
Southern	245	190	154	35	18.1
Florida					
Middle	673	164	132	32	18.4
Northern	201	230	187	43	18.0
Southern	252	136	114	23	16.7
Georgia					
Middle	235	129	104	25	19.2
Northern	70	190	156	34	17.5
Southern	175	161	138	23	14.0

<sup>1</sup>Of the 23,155 cases, 536 were excluded from this analysis because the case cannot be matched with an original case in the Commission's records and 7,596 were excluded from this analysis because the court denied the motion for a sentence reduction. Of the remaining 15,023 cases, 1,209 were excluded from this analysis because the offender was sentenced to time served and the resulting term of imprisonment could not be determined from the records received by the Commission.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.

**Table 9**

**REASONS GIVEN BY SENTENCING COURTS FOR DENIAL OF MOTION<sup>1</sup>**

<b>REASONS</b>	<b>N</b>	<b>%</b>
<b>Offense does not involve crack cocaine</b>	<b>927</b>	<b>10.9</b>
Case does not involve crack cocaine	774	9.1
Sentence is determined by a non-drug guideline	153	1.8
<b>Offender not eligible under §1B1.10</b>	<b>5,678</b>	<b>66.5</b>
Career Offender or Armed Career Criminal provisions control sentence	2,069	24.2
Statutory mandatory minimum controls sentence	2,065	24.2
Case involved more than 4.5 kg of crack cocaine	775	9.1
Guideline range does not change	275	3.2
Base offense level does not change (due to multiple drugs)	228	2.7
Original sentence has been served	182	2.1
Statutory maximum sentence is less than applicable guideline range	77	0.9
Base offense level is 12 or lower	7	0.1
Base offense level is 43	0	0.0
<b>Denied on the merits</b>	<b>1,289</b>	<b>15.0</b>
Offender has already benefitted from departure or variance	474	5.5
18 U.S.C § 3553(a) factors	212	2.5
Protection of the public	187	2.2
Offender subject to guideline reduction at original sentencing	187	2.2
Post-sentencing or post-conviction conduct	149	1.7
Denial because of binding plea	80	0.9
<b>No reason provided/Other reason</b>	<b>649</b>	<b>7.6</b>
No reason provided	368	4.3
Other	281	3.3

<sup>1</sup>Courts may cite multiple reasons for denying a motion; consequently, the total number of reasons cited generally exceeds the total number of cases. In this table, 8,543 reasons were cited for the 7,796 cases. Of the 368 cases in which the court did not give a reason for the denial, 236 were previously identified as ineligible by the Commission for sentence reduction (*see* 'Analysis of the Impact of the Crack Cocaine Amendment If Made Retroactive' (October 3, 2007) *available at* [www.usc.gov](http://www.usc.gov)). Of those 236 cases, a statutory mandatory minimum controlled the sentence in 41 cases, in 26 cases the quantity of crack cocaine in the case exceeded 4.5 Kg, in 34 cases the sentence was determined by a non-drug guideline, in 11 cases no change in the guideline range was found, in 45 cases crack cocaine was not involved, in 52 cases Career Offender or Armed Career Criminal provisions controlled the sentence, in 17 cases the offender was predicted to have been released, in five cases the Bureau of Prisons informed the Commission that the offender was no longer serving time for the instant offense, in one case the base offense level was 12 or lower, in three cases the base offense level was 43 and in one case there was no record on file with the Bureau of Prisons.

SOURCE: U.S. Sentencing Commission, Preliminary 2008-2009 Datafiles, USSCFY08-USSCFY09.